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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/678,414	10/02/2000	David W. Carlson	NSC1-H1700 [P04797]	4381
33402	7590	12/16/2005	EXAMINER	
LAW OFFICES OF MARK C. PICKERING			KEBEDE, BROOK	
P.O. BOX 300			ART UNIT	
PETALUMA, CA 94953			PAPER NUMBER	
			2823	

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/678,414	CARLSON, DAVID W.	
	Examiner	Art Unit	
	Brook Kebede	2823	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 7, 2005 has been entered.

Status of the Claims

2. Claims 31 - 52 are now pending in the application.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 31-36, 38-46 and 49-52 are rejected under 35 U.S.C. 102(e) as being anticipate by Li et al. (US/6,162,368).

Re claims 31 and 42, Li et al. disclose a method for forming a planarized layer of material on a processed wafer, the wafer having a top surface, the top surface having spaced-apart wafer upper levels a wafer lower level that lies between the wafer upper levels, the wafer upper levels lying above the wafer lower level, the method comprising: forming a layer of first material (16) to contact the top surface of the wafer (10), the layer of first material (16) having a

Art Unit: 2823

top surface, the top surface of the layer of first material having a first lower level and a first upper level that lies above the first lower level; forming a layer of second material (18) to contact the top surface of the layer of first material (16), the layer of second material being non-planar to surface; and chemically-mechanically polishing the non-planar top surface of the layer of second material (18) and the underlying layer of first material (16) with a slurry to form the planarized layer of second material (see Figs. 2D-2F); and wherein the layer of first material makes an electrical contact with a device on the wafer, the planarized layer of material lying over the wafer upper levels and the wafer lower level, the layer of the first material (16) having substantially planar top surface when the layer of second material (18) as soon as substantially all removed (see Fig. 2D) form the layer of first material (see Figs. 2A-2I and Col. 4, line 37 through Col. 6, line 54).

Re claim 32, as applied to claim 31 above, Li et al. disclose all the claimed limitations including the limitation wherein the planarized layer of material has first thickness over the wafer upper level and, wherein the layer of first material is formed such that the first lower level lies above the wafer upper level by a second thickness that is equal to or greater than the first thickness (see Figs. 2A-2I and Col. 4, line 37 through Col. 6, line 54).

Re claims 33 - 35, as applied to claim 31 above, Li et al. disclose all the claimed limitations including the limitation wherein the layer of first material is conductive layer (i.e., doped polysilicon which is doped prior forming the second material) and electrically connected to the device on wafer (i.e., substrate) (see Figs. 2A-2I and Col. 4, line 37 through Col. 6, line 54).

Re claim 36, as applied to claim 31 above, Li et al. disclose all the claimed limitations including the limitation the second material is non-conductive (i.e., being an oxide) (see Figs. 2A-2I and Col. 4, line 37 through Col. 6, line 54).

Re claim 38 and 39, as applied to claim 31 above, Li et al. disclose all the claimed limitations including forming a layer of third material (i.e., also mask layer) on the planarized layer of material (see Figs. 2A-2I and Col. 4, line 37 through Col. 6, line 54).

Re claim 40, as applied to claim 38 above, Li et al. disclose all the claimed limitations including the planarized layer of material includes doped polysilicon; and the layer of third material lowers a resistance of doped polysilicon (see Figs. 2A-2I and Col. 4, line 37 through Col. 6, line 54).

Re claim 40, as applied to claim 40 above, Li et al. disclose all the claimed limitations including forming a mask on the layer of third material (see Figs. 2A-2I and Col. 4, line 37 through Col. 6, line 54).

Re claim 43, as applied to claim 42 above, Li et al. disclose all the claimed limitations including the limitation wherein the planarized layer of material has first thickness over the wafer upper level and, wherein the layer of first material is formed such that the first lower level lies above the wafer upper level by a second thickness that is equal to or greater than the first thickness (see Figs. 2A-2I and Col. 4, line 37 through Col. 6, line 54).

Re claims 44 - 47, as applied to claim 42 above, Li et al. disclose all the claimed limitations including the limitation wherein the layer of first material is conductive layer (i.e., doped polysilicon which is doped prior forming the second material) and electrically connected

Art Unit: 2823

to the device on wafer (i.e., substrate) (see Figs. 2A-2I and Col. 4, line 37 through Col. 6, line 54).

Re claim 49 and 50, as applied to claim 42 above, Li et al. disclose all the claimed limitations including forming a layer of third material (i.e., also mask layer) on the planarized layer of material (see Figs. 2A-2I and Col. 4, line 37 through Col. 6, line 54).

Re claim 51, as applied to claim 49 above, Li et al. disclose all the claimed limitations including the planarized layer of material includes doped polysilicon; and the layer of third material lowers a resistance of doped polysilicon (see Figs. 2A-2I and Col. 4, line 37 through Col. 6, line 54).

Re claim 52, as applied to claim 51 above, Li et al. disclose all the claimed limitations including forming a mask on the layer of third material (see Figs. 2A-2I and Col. 4, line 37 through Col. 6, line 54).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 37 and 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Li et al. (US/6,162,368), as applied in Paragraph 4 above, in view of Weling et al. (US/5,378,318).**

Re claims 37 and 48, as applied to claims 31 and 42 in Paragraph 4 above, Li et al. disclose all the claimed limitations including using a slurry that has a predetermined etch rate.

However, Li et al. do not specifically disclose the etch selectivity of the first material to the second material approximately same rate (i.e., being 0.9-1.1:1).

Weling et al. disclose CMP of the first material (21) and second material (23) with a etch selectivity of 1:1, (i.e., approximately same rate) (see Fig. 1, Col. 7, lines 6-11).

Both Li et al. and Weling et al. teachings are directed to CMP process in order to planarize a material for semiconductor device fabrication. Therefore, the teachings Li et al. and Weling et al. are analogous

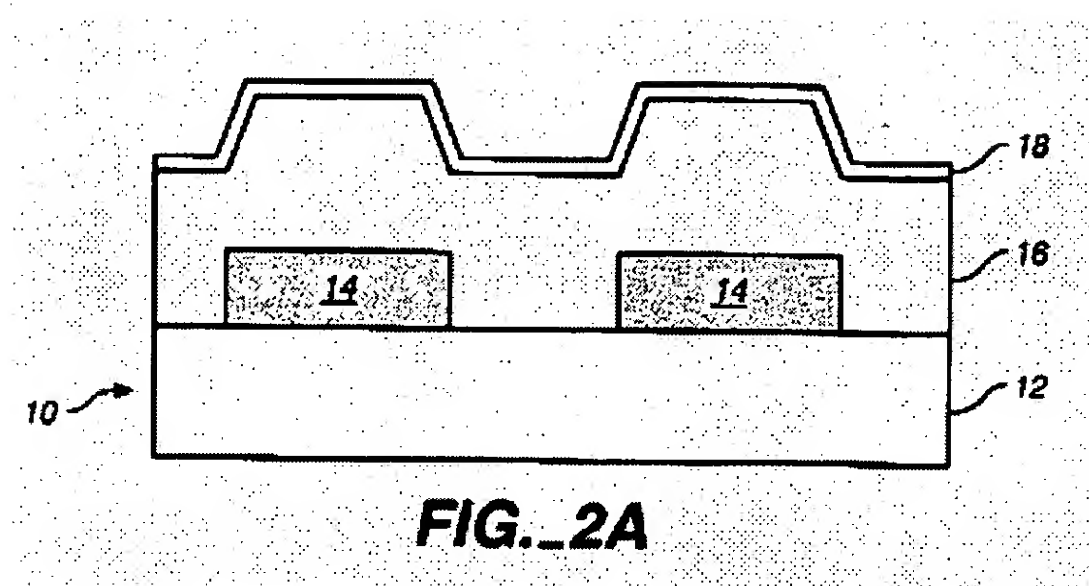
Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant(s) claimed invention was made to provide Li et al. reference with etch selectivity ratio 1:1 as taught by Weling et al. because in order to polish the first layer and second layer at the same rate and form planar surface for the fabrication of semiconductor device.

Response to Arguments

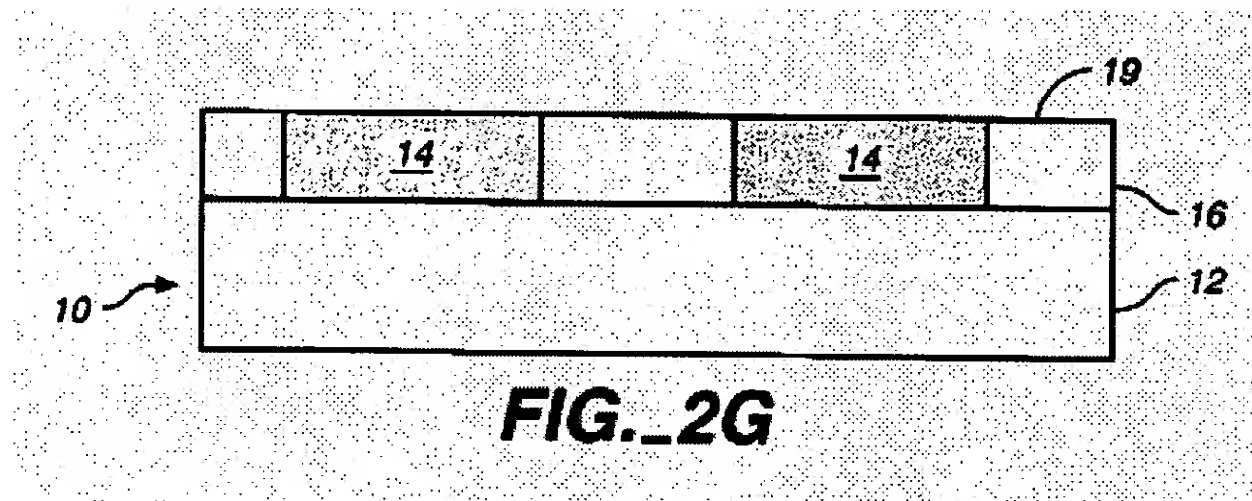
7. Applicant's arguments filed on November 7, 2005 have been fully considered but they are not persuasive.

Applicant further argued that "The CMP shown in Li can not be read to be CMP required by the claims... layer 16 does not have substantial planar top surface..."

In response to the applicant's argument, it is respectfully submitted that Li et al. '368 disclose all the claimed limitations the instant application as claimed in claims 31-36, 38-46 and 49-52 as applied above. For example, as shown in Fig. 2A and presented herein below, the first material layer 16 does not have a planar surface.



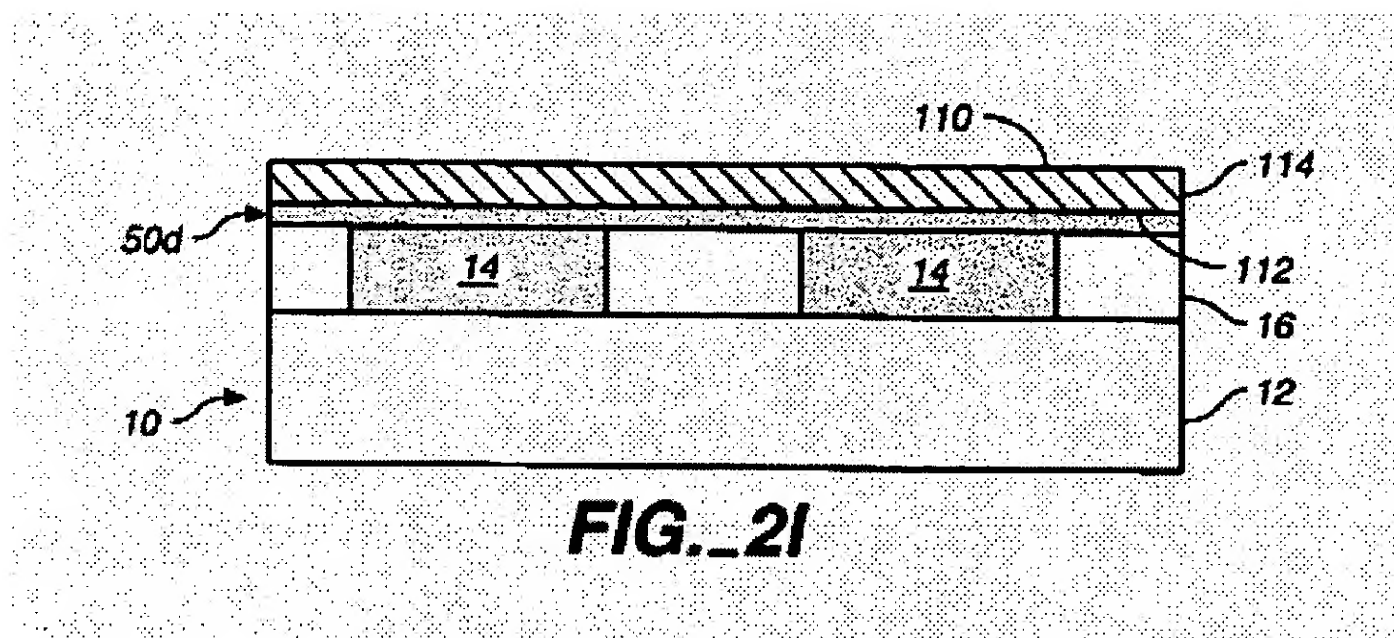
After the CMP process and removal of the material layer 18, the first material layer 16 having a substantially planar surface 19 as shown in Fig. 2G herein below.



Applicant further argues that “Li fails to teach or suggest formation of third material as claimed ...” In repose to applicant’s argument, it is respectfully submitted that Li et al. ‘368 disclose all the claimed limitations of the instant application as claimed including forming of third material over the planarized second material. For example, Fig. 2I as shown below material layer 114 is meets the claim language third material layer as applied in the rejected claims in

Art Unit: 2823

Paragraph 4 above.



Furthermore, the rejected claims do not specifically claim the type of material and process step such a way can be distinguishable from Li et al. '368 disclosure. In this regard, claims are given their broadest reasonable interpretation in light of the supporting disclosure. See *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. See *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also *In re Zletz*, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).

As shown above, the rejection under 35 U.S.C. §102(e) is deemed proper and the rejection under 35 U.S.C. §103(a) also deemed proper and the *prima facie* case of obviousness has been met.

Conclusion

8. **THIS ACTION IS MADE NON-FINAL.**

Art Unit: 2823

Correspondence

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brook Kebede whose telephone number is (571) 272-1862. The examiner can normally be reached on 8-5 Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Smith can be reached on (571) 272-1907. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brook Kebede
Brook Kebede
Primary Examiner
Art Unit 2823

BK
December 12, 2005